

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

FILED: **9/8/08**
U.S. DISTRICT COURT
EASTERN DISTRICT COURT
DAVID J. MALAND, CLERK

UNITED STATES OF AMERICA	§	
	§	
v.	§	CASE NO. 4:05CR229(1)
	§	
WILIBALDO ROMERO-TAMARIZ	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on August 26, 2008 to determine whether the Defendant violated his supervised release. The Defendant was represented by Denise Benson. The Government was represented by Randy Blake.

On August 17, 2006, the Defendant was sentenced by the Honorable Paul Brown, United States District Judge, to 15 months imprisonment, followed by a 1-year term of supervised release for the offense of reentry of deported alien. On February 26, 2007, Defendant was released from custody and ordered to commence service of a 1-year term of supervised release. The case was reassigned to the Honorable Richard A. Schell, United States District Judge, on September 24, 2007.

On October 10, 2007, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender Under Supervision (Dkt. 26) which was amended on November 7, 2007 (Dkt. 28). The amended petition asserted that Defendant violated the following conditions of supervision: (1) Defendant shall not commit another federal, state, or local crime; (2) immediately upon release from

confinement, Defendant shall be surrendered to a duly authorized immigration official for deportation proceedings in accordance with the established procedures provided by the Immigration and Nationality Act, 8 U.S.C. § 1101, et. seq., if ordered deported, Defendant shall remain outside of the United States, and in the event Defendant is not deported, Defendant shall comply with all conditions of supervised release.

The petition alleges that Defendant committed the following violations: (1) Defendant was arrested on September 11, 2007 by University of North Texas Police, Denton, Texas for Theft of Property; (2) on October 11, 2007, the Grand Jury in the Eastern District of Texas, Sherman Division returned a one-count indictment charging Defendant with a violation of 8 U.S.C. § 1326, Reentry of Deported Alien and Defendant is currently being held in federal custody; and (3) Defendant was deported by Immigration and Customs Enforcement (ICE) on March 13, 2007, after being released from the Federal Bureau of Prisons, and he unlawfully entered the United States and was arrested on September 11, 2007. The petition further claims that Defendant has been deported from the United States on four separate occasions and has illegally returned after each deportation.


Prior to the Government putting on its case, the Defendant entered a plea of true to the alleged violations. At the hearing, the Court recommended that Defendant's supervised release be revoked. Defendant waived allocution before a district judge.

RECOMMENDATION

The Court recommends that the District Court revoke the Defendant's supervised release. Pursuant to the Sentencing Reform Act of 1984, the Court recommends that the Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of twelve (12)

months, to run consecutively with any other sentence being served, with no supervised release to follow.

SIGNED this 27 day of Aug, 2008.


DON D. BUSH
UNITED STATES MAGISTRATE JUDGE